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Canada Border
Services Agency Agence des services
frontaliers du Canada

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For action

IMMIGRATION, REFUGEES AND CITIZENSHIP CANADA PUBLIC POLICY: GUARDIAN ANGELS

For the Minister

ISSUE

On November 23, 2020, the Minister of Immigration, Refugees and Citizenship signed two temporary public policies to grant permanent residence (PR) to certain pending and failed refugee claimants working in the health-care sector during the COVID-19 pandemic, as well as to their in-Canada family members. The public policies, which are not yet public, will be implemented on December 14, 2020, and will end on August 31, 2021.

One public policy is for refugee claimants living in Canada outside Quebec (see Annex A). A separate public policy is for those intending to reside in Quebec (see Annex B), recognizing the unique selection authority of Quebec established under the Canada-Quebec Accord.

BACKGROUND

The public policies, to be implemented nationally, provide a pathway to PR for pending and failed asylum claimants (and their in-Canada family members) working in the health-care sector during the COVID-19 pandemic. The public policies also provide a pathway to PR for spouses and common-law partners of refugee claimants who would have met the conditions of working in designated occupations but were unable to work the requisite 750 hours or six months, as they contracted COVID-19 and passed away prior to applying for PR or after applying but before being granted PR.

IRCC officials have worked closely with officials from Quebec's Ministère de l'Immigration, de la Francisation et de l'Intégration (MIFI) to align the eligibility criteria as they pertain to the occupation and experience requirements for individuals in the rest of Canada with Quebec's selection criteria related to the same requirements.

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Among the eligibility requirements, and in order to receive approval in principle, both public policies require that a pending or failed claimant has worked in Canada in one or more designated occupations providing direct patient care in a hospital, public or private long-term care home or assisted-living facility, or for an organization/agency providing home or residential health-care services to seniors and persons with disabilities in private homes:

- for a minimum of 120 hours (equivalent to four weeks full-time) between March 13, 2020 and August 14, 2020; and
- for a minimum of six months full-time (30 hours per week) or 750 hours' (if working part-time) total experience (obtained no later than August 31, 2021).

In the context of its selection authority, Quebec will be responsible for assessing ability to establish in the province, as well as the occupation and work experience requirements, in alignment with regulations that the province is developing for this initiative. Immigration, Refugees and Citizenship Canada (IRCC) must receive a Certificat de sélection du Québec (CSQ) issued under Quebec's special program for asylum seekers during the COVID-19 period before a delegated officer can approve the application in principle.

IRCC will assess all criteria under the public policy for the rest of Canada. Applicants who apply before they have completed the six-month experience requirement will have their application placed on hold until evidence supporting that this criterion has been met is submitted (a delay of 60 days will be provided to applicants to provide proof of work experience).

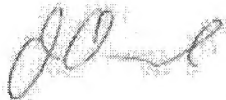
Those whose refugee claims were: determined to be ineligible to be referred to the Immigration and Refugee Board; determined to be withdrawn (unless withdrawn immediately prior to being granted PR through the public policy); determined to be abandoned; determined to be manifestly unfounded or with no credible basis; received a vacation or cessation determination; or were excluded pursuant to Article 1F will not be eligible to make an application for PR status under this public policy. In addition, pending or failed refugee claimants (and their family members) must meet all admissibility requirements, other than those for which they are exempted under this public policy, including the requirement not to be inadmissible for criminality, security, or health grounds.

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RECOMMENDATION

Please note that I am available to discuss, or have CBSA officials brief your staff, at your convenience.



December 01, 2020

John Ossowski
President

Minister's response

I approve ☒

I do not approve ☐



DEC 17 2020

The Honourable Bill Blair, P.C., C.O.M., M.P.

Date

ATTACHMENTS

1. Memorandum - Ministerial stay of removal imposed
2. Annex A: Public policy applicants living outside Quebec
3. Annex B: Public policy applicants living in Quebec

c.c.: Mr. Rob Stewart, Deputy Minister
Public Safety Canada

Annex A

Designated occupations - National Occupational Classification (NOC) codes

- 3011 – Nursing co-ordinators and supervisors
- 3012 – Registered nurses and registered psychiatric nurses
- 3233 – Licensed practical nurses
- 3413 – Nurse aides, orderlies and patient service associates
- 3124 – Allied primary health practitioners

Other designated occupations:

- 4412 – Home support workers, housekeepers and related occupations only

Note 1: Among the sub-occupations under NOC 4412, housekeepers and related occupations are excluded from the designated occupations under the public policy.

To be eligible under the NOC code 4412 for this public policy:

- The applicant **must** be engaged in providing basic personal care services and offering physical assistance directly to patients by primarily performing some or all of these duties:
 - Provide care and companionship for individuals and families during periods of incapacitation, convalescence or family disruption
 - Administer bedside and personal care to clients such as aid in ambulation, bathing, personal hygiene, and dressing and undressing
 - May perform routine health-related duties such as changing non-sterile dressings, assisting in the administration of medications and collecting specimens under the general direction of a home care agency supervisor or nurse
- The applicant **may** also perform duties listed below, in addition to the above mentioned duties:
 - Plan and prepare meals and special diets, and feed or assist in feeding clients
 - Perform routine housekeeping duties such as laundry, washing dishes and making beds

Note 2: For greater certainty, as per the objective of the public policy, the applicant must demonstrate that the principal care services provided are for the patient and not their family. In addition, the onus is on the applicant to satisfy the officer that they predominantly provided personal care and support services as per the main duties described in the NOC occupational description, with any performance of routine housekeeping duties such as laundry, washing dishes, etc., being incidental to their primary role providing direct in-home care.

Note 3: For greater certainty, self-employed caregivers or those who are employed by private households (directly employed by the person receiving care, or by the family/guardians of the person receiving care) are excluded from this public policy.

Annex B

Document requirements

Subparagraph 72 (1) (e) (ii) of the Regulations:

A foreign national in Canada becomes a permanent resident if, following an examination, it is established that: (e) except in the case of a foreign national who has submitted a document accepted under subsection 178 (2) of the Regulations or of a member of the protected temporary class: (ii) they hold a document described in any of paragraphs 50 (1) (a) to (i) of the Regulations.

Paragraphs 50 (1) (a) to (i) of the Regulations:

- (a) a passport, other than a diplomatic, official or similar passport, that was issued by the country of which the foreign national is a citizen or national;
- (b) a travel document that was issued by the country of which the foreign national is a citizen or national;
- (c) an identity or travel document that was issued by a country to non-national residents, refugees or stateless persons who are unable to obtain a passport or other travel document from their country of citizenship or nationality or who have no country of citizenship or nationality;
- (d) a travel document that was issued by the International Committee of the Red Cross in Geneva, Switzerland, to enable and facilitate emigration;
- (e) a passport or travel document that was issued by the Palestinian Authority;
- (f) an exit visa that was issued by the Government of the Union of Soviet Socialist Republics to its citizens who were compelled to relinquish their Soviet nationality in order to emigrate from that country;
- (g) a passport issued by the United Kingdom to a British National (Overseas), as a person born, naturalized or registered in Hong Kong;
- (h) a passport issued by the Hong Kong Special Administrative Region of the People's Republic of China; or
- (i) a passport issued by the United Kingdom to a British Subject.

Subsection 178(1) of the Regulations:

Identity documents - An applicant who does not hold a document described in any of paragraphs 50 1(a) to (i) of the *Regulations* may submit with their application:

- (a) any identity document issued outside Canada before the person's entry into Canada;
or
- (b) if there is a reasonable and objectively verifiable explanation related to circumstances in the applicant's country of nationality or former habitual residence for the applicant's inability to obtain any identity documents, a statutory declaration made by the applicant attesting to their identity, accompanied by

- (i) a statutory declaration attesting to the applicant's identity made by a person who, before the applicant's entry into Canada, knew the applicant, a family member of the applicant or the applicant's father, mother, brother, sister, grandfather or grandmother, or
- (ii) a statutory declaration attesting to the applicant's identity made by an official of an organization representing nationals of the applicant's country of nationality or former habitual residence.

Subsection 178 (2) of the Regulations:

Alternative documents - A document submitted under subsection 178 (1) of the Regulations shall be accepted in lieu of a document described in any of paragraphs 50 (1) (a) to (i) if

- (a) in the case of an identity document, the identity document
 - (i) is genuine,
 - (ii) identifies the applicant, and
 - (iii) constitutes credible evidence of the applicant's identity; and
- (b) in the case of a statutory declaration, the declaration
 - (i) is consistent with any information previously provided by the applicant to the Department or the Board, and
 - (ii) constitutes credible evidence of the applicant's identity